

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Trustees of the Plumbers and Pipefitters
Union Local 525 Health and Welfare Trust
and Plan et al.,

Plaintiffs,

vs.

Juan Carillio Sotelo dba Sotelo Air; Sotelo
Air, Inc. dba Cool Air Now; Aegis Security
Insurance Company; American Safety
Casualty Insurance Co.,

Defendants.

Case No.: 2:13-cv-00657-JAD-NJK

**Order Granting in Part Motion to
Strike Answer and Denying Motion for
Clerk's Entry of Default [#21, 22]**


On November 15, 2013, Defendant Juan Carillio Sotelo filed an answer "in Proper Person and answering for" Sotelo Air; Sotelo Air, Inc. dba Cool Air Now; Aegis Security Insurance Company; and American Safety Casualty Insurance Co. Doc. 20. Plaintiffs move to strike the answer and to default these fictitious-entity defendants because the law prohibits non-attorney Sotelo from representing these parties in court. "It is a longstanding rule that corporations and other unincorporated associations must appear in court through an attorney." *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-74 (9th Cir. 2004) (citation and quotation marks omitted, second modification in original); *Rowland v. California Men's Unit II Advisory Council*, 506 U.S. 194, 202 (1993). A court may sanction a fictional defendant by striking its answer when it fails to retain counsel to defend itself.

1 *See Galtieri-Carlson v. Victoria M. Morton Enters., Inc.*, 2010 WL 3386473 (E.D.Cal. Aug.
2 26, 2010) (sanctioning corporate defendants by striking their answer when they failed to
3 retain alternate counsel after the withdrawal of their original counsel); *Rojas v. Hawgs*
4 *Seafood Bar, Inc.*, 2009 WL 1255538 (N.D.Cal. May 5, 2009) (“When a corporation fails to
5 retain counsel to represent it in an action, its answer may be stricken and a default judgment
6 entered against it”).

7 IT IS HEREBY ORDERED that Plaintiffs’ Motion to Strike the Answer [#21] is
8 **GRANTED**; the Answer on behalf of Sotelo Air, Inc. dba Cool Air Now, Aegis Security
9 Ins. Co., and American Safety Casualty Ins. Co. is **STRICKEN** ;

10 IT IS FURTHER ORDERED that the Motion to Enter Clerk’s Default against these
11 fictitious defendants [#22] is **DENIED** without prejudice; Sotelo Air, Inc. dba Cool Air
12 Now, Aegis Security Ins. Co., and American Safety Casualty Ins. Co. shall have up through
13 and including **December 20, 2013**, to retain counsel and have new counsel file an answer on
14 their behalf. **Sotelo Air, Inc. dba Cool Air Now, Aegis Security Ins. Co., and American**
15 **Safety Casualty Ins. Co. are strongly cautioned that failure to retain counsel and have**
16 **counsel file a proper answer on their behalf by this deadline may result in the entry of**
17 **default and a potential default judgment entered against them.**

18 December 5, 2013.

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21 JENNIFER A. DORSEY
22 UNITED STATES DISTRICT JUDGE
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